

Senate Bill 43

By: Senator Bulloch of the 11th

AS PASSED

AN ACT

To amend Article 5 of Chapter 7 of Title 2 of the Official Code of Georgia Annotated, relating to boll weevil eradication, so as to change certain provisions relating to definitions; to change certain provisions relating to the assessment for suppression and eradication programs and conditions of assessments; to change certain provisions relating to penalties; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 5 of Chapter 7 of Title 2 of the Official Code of Georgia Annotated, relating to boll weevil eradication, is amended by revising paragraph (4.1) of Code Section 2-7-152, relating to definitions, as follows:

"(4.1) 'First handler' means that person who owns or operates the gin where cotton is first delivered from the cotton grower."

SECTION 2.

Said article is further amended by revising paragraphs (3) and (7) of Code Section 2-7-156, relating to the assessment for suppression and eradication programs and conditions of assessments, as follows:

"(3) When the assessment is imposed on a per bale basis, it shall be the duty of each first handler of cotton from cotton growers in this state to collect the assessments imposed pursuant to this article on such cotton, to file reports on forms prescribed by the Commissioner listing such sales and the name of the grower, and to remit the amounts so imposed and collected to the Commissioner within 30 days of the date of purchase of the cotton;"

"(7) In addition to the lien provided in paragraph (6) of this Code section, the Commissioner shall have a special lien on cotton for payment of assessments which shall be superior to any other lien provided by law, shall arise as of the time the assessments become due and payable, and shall cover all cotton grown by or ginned from the cotton

grower from the date the lien arises until such assessments are paid; provided, however, that any buyers of cotton shall take free of such lien if such buyer has not received written notice of the lien from the Commissioner. Such lien extends to the proceeds of sale received by the person who originally bought the cotton from the grower. Notice may be provided by tagging the cotton as being subject to a delinquency or by documentation in the sales agreement indicating that the cotton is subject to a delinquency. The Commissioner or the Commissioner's authorized representative is authorized and empowered to so tag the cotton wherever found. In order to enforce such liens, the Commissioner is authorized to issue an execution for the collection of delinquent assessments due the Commissioner. The execution shall be directed to all and singular sheriffs of this state and shall command them to levy upon the cotton of the cotton grower or notified initial buyer; provided, however, that the Commissioner shall be authorized to levy and collect his or her own executions. Each sheriff or the Commissioner or the Commissioner's authorized representative shall execute the execution as in cases of writs of execution from the superior courts. The Commissioner or the Commissioner's authorized representative may levy and conduct judicial sales in the manner provided by law for sales by sheriffs and constables. The special lien on cotton may also be enforced by a foreclosure action or action at law, as appropriate, brought by the Commissioner in the superior court of the county of residence of the person who originally bought the cotton from the grower. A buyer of cotton other than a person buying cotton from the grower takes free of the lien created by this paragraph."

SECTION 3.

Said article is further amended by revising subsection (b) of Code Section 2-7-158, relating to penalties, as follows:

"(b) Any cotton grower or the first handler of cotton from a cotton grower who fails to pay any assessment levied under this article when due and upon reasonable notice shall be subject to a penalty of not more than \$25.00 per acre or \$12.50 per bale, such amount to be established by the Commissioner upon recommendation of the board of directors of the cotton growers' organization."

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.